IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1389 OF 2005

WITH

CIVIL APPLICATION NO.1918 OF 2005

Ramhari alias Hariram Dhondiba
Gavali & Ors. ..Appellants.

Vs.

Baban Gabaji Saste & Ors. ..Respondents.

...

Mr.V.B.Nighot with Mr.A.B.Kadam for the Appellants.
Mr.S.J.Rairkar for Respondent No.1.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

15th December, 2005.

P.C. :

1. A decree was passed by the Civil Judge, Senior Division, Pune directing the Appellants to hand over possession and restraining the Appellants from interfering with the possession of the Plaintiff. The decree has been confirmed by the Joint District Judge by the impugned order dated

30th June, 2005. The Appellate Court has dealt with the defence of the Appellants both from the stand point of the sale deed dated 13th May, 1948 and a sale deed of 1932. The sale deed of 13th May, 1948 is unregistered. Admittedly, a copy of the said sale deed was not produced before the Consolidation authorities which raised an element of doubt on the authenticity of the document. Though the sale deed of 1932 was produced at Exh.92, Exh.93 showed that the land had been repurchased by Gabaji on 19th June, 1964.

2. On behalf of the Appellants, it has been submitted that the suit is barred by limitation. However, from the discussion in paragraph 13 of the judgment of the Appellate Court it is evident that the cause of action for the suit arose in 1990-91 when Hariram (through whom the Appellants claim) came to the village and constructed a house on the suit property. The contention of the Appellants that they were in adverse possession must fail since it has neither been pleaded nor proved with any particularity.

3. The Second Appeal does not raise any

substantial question of law. The Second Appeal is accordingly dismissed.

4. In order to enable the Appellants to seek recourse to their remedies in appeal, the order of status quo shall continue for a period of six weeks from today, subject to the filing of the usual undertaking within a period of four weeks.

5. In view of the disposal of the Second Appeal, the Civil Application is rendered infructuous and is accordingly disposed of.